

Date signed March 02, 2005



Paul Mannes

PAUL MANNES
U. S. BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
at Greenbelt

IN RE: :
AFFORDABLE RESIDENTIAL :
HOUSING, INC. : Case No. 04-18859PM
Debtor : Chapter 11
----- :
----- :

MEMORANDUM OF DECISION

Before the court is one of the more unique situations that the court has encountered. On February 24, 2005, the court heard a Motion filed by Ayers 50, LLC, seeking to vacate the Order of this court entered September 17, 2004, on Debtor's Motion to Sell free and clear certain real property located in the District of Columbia. The Debtor's papers describe it as a Delaware non-profit corporation that is the owner of property under unrecorded tax deeds. Shortly before this bankruptcy case was filed under Chapter 11 on April 19, 2004, Debtor had entered into an agreement to sell whatever interest it had in the subject property to an entity known as A Street Improvement, Inc., a Maryland corporation.

The court finds as a fact that this bankruptcy case under Chapter 11 was filed merely to facilitate that sale, with the sales price described under 4.2(a) of the Contract calculated to cover the liens, charges, claims and encumbrance against the property, together with the administrative expenses incurred in the bankruptcy. Indeed, if the liens aggregated less than \$673,000.00, the purchase price was to be reduced or increased if more funds were required to pay the liens. In short, the representation made in open court that unsecured creditors benefit from this transaction was incorrect.

While the court believes that the party moving to vacate the Order of September 17, 2004, lacks standing to do so, that does not end the matter. The court is advised that the assignee of the purchaser of the interests in the unrecorded tax deeds has no legal standing, that is, that it is a nonentity. The court is also advised that there is now pending in the Superior Court of the District of Columbia an action known as *Continental Development Corporation, the assignee of the sales contract, vs. BSL, Inc., Trustee*, 05-0000960 (R.P.). This action is an action to quiet title to the subject real property. The Debtor is not named as a party to that action.

While the court will not vacate its earlier Order entered September 17, 2004, the court believes that it should modify its Order *sua sponte* to correct its mistake in describing the transaction that actually took place. An appropriate order will be entered.

cc:

Jeffrey M. Sherman, Esq., Hall Estill, 1120 20th Street, N.W., #700, Washington, DC 20036
Richard S. Basile, Esq., 6305 Ivy Lane, Suite 416, Greenbelt, MD 20770
United States Trustee, 6305 Ivy Lane, #600, Greenbelt MD 20770
Heartwood 88 LLC, c/o First Liberty Nation Bank, Attn: John K. Reiff, Esq.
9891 Broken Land Parkway, Suite 301, Columbia, MD 21046
Dept. of Consumer & Regulatory Affairs, 941 N. Capital Street, N.E., Washington, DC 20002
Attorney General, District of Columbia, Attn: Darlene Fields,
441 4th Street, NW, Washington, DC 20001

End of Memorandum